

REMARKS

Please reconsider the claims in the application in view of the remarks below.

Claim Rejection – 35 U.S.C. §103(a)

Claims 1-30 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,145,088 (“Stevens”) in view of U.S. Patent No. 6,738,928 (“Brown”).

Applicant respectfully traverses the rejection.

Stevens and Brown in combination do not disclose or suggest every element claimed in independent claims 1, 10, 15, 20, 25 and 30. Stevens as understood by applicant discloses remote recovery of inaccessible data on computer storage devices. Stevens’ bootable remote data recovery operating system determines the specific hardware configuration of the user’s local computer, interrogates the user, and establishes communications link with the remote data recovery computer and downloads the information entered by the user. The technician at the remote data recovery computer then takes control of the user’s computer via the remote link and begins the remote data recovery process. Brown as understood by applicant discloses an expert system for analysis of crash dumps. Brown discloses that the expert system is run on the failed computer system, albeit on a different operating system. Brown further appears to disclose that the expert system can be run on another machine (col. 4, lines 35-38) or on a central system (col. 5, lines 25-29).

With respect to claim 1, the Office Action alleges that Stevens discloses the first 5 elements claimed in claim 1 and that Brown discloses the rest. Contrarily, Stevens fails to disclose or suggest at least, “a second computing system executing the same operating system of said first platform type as said failed operating system.” The Office Action cites Stevens’ col. 7,

lines 13-21 for that proposition. Those lines of Stevens refer to a remote data recovery operating program installed on a computer that is a candidate for failure and diagnoses. That passage does not disclose or suggest, “a second computing system executing the same operating system.” Further, while Brown appears to disclose that different operating systems may coexist in different partitions of the crashed system, Brown like Stevens also fails to disclose or suggest, “a second computing executing the same operating system.” At best as understood by applicant, Brown discloses another machine (col. 4, lines 34-37) and a central machine (col. 5, lines 25-29) on which its CAT can also be run. Brown, however, does not disclose or suggest that those machines execute the same operating system as the failed machine.

Analogously, Brown does not disclose or suggest at least, “a means at said second computing system for utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system,” contrary to the allegations in the Office Action, at least because, the claimed second computing system diagnosing the failed operating system runs the same operating system as the failed operating system.

On the other hand, claim 1 in the present application is directed to “a first computing system executing an operating system of a first platform type; an operating system of a second platform type adapted to be executed on said first computing system upon failure of said operating system of said first platform type; a second computing system executing the same operating system of said first platform type as said failed operating system.” In this way, for example, using one or more proxy machines that run the same operating environment as the failed one, as explained at least on pages 1 – 2 and paragraph 0011 and 0013, of the originally submitted specification, complex programming and engineering task issues associated with known diagnostic and repair method may be circumvented.

Independent claims 10, 15, 20, 25 and 30 recite similar elements. Therefore, for the same foregoing reason, applicant believes Stevens and Brown do not disclose or suggest every element claimed in those claims. For at least the foregoing reasons, it is believed that Stevens and Brown do not anticipate independent claims 1, 10, 15, 20, 25, 30 and their dependent claims by at least virtue of their dependencies.

In view of the foregoing, this application is now believed to be in condition for allowance, and a Notice of Allowance is respectfully requested. If the Examiner believes a telephone conference might expedite prosecution of this case, applicant respectfully requests that the Examiner call applicant's attorney at (516) 742-4343.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steven Fischman', is written over a horizontal line.

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